

Dear Senators,

I urge you to block or table Senator Keith Bales' bill SB387. The ability of the public to challenge agency decisions which are not in the best public interest should not be curtailed. In these times of underfunded and understaffed regulatory agencies, public oversight is more necessary than ever. I believe a careful reading of the Montana Constitution will bear this out. The law and our senators and representatives certainly should have the well-being of the citizens of Montana as the first priority in any legislation affecting the quality of our environment as guaranteed by our Constitution.

Sincerely,
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February 12, 2009

Dear Chairman Black and Members of the Senate Energy and Telecommunication Committee,

I urge everyone on the Senate Energy and Telecommunications Committee to Vote against SB 387.

Looking through this bill there are so many restrictions that only apply to the public and not to the applicant – the developer. This is categorically unfair to the public.

The provision that restricts the evidence that may be presented during a hearing or in a request for a hearing is unfair. Citizens, but not the developer, may only provide evidence during a hearing that was presented during the public comment period. In other words, citizens may not bring new evidence. Since this same standard does not apply to the applicant, it unfairly tips the scales of justice against citizens.

We need more fairness in the processes that permit development of our resources, not less.

In our part of the state, landowners and citizens have faced coal development, a proposed railroad and now CBM development. Ranchers like me have become accustomed to the reality of the unfair burden of proof that is placed on us in the processes that allow development on our land in our communities. We have long advocated simple fairness in these processes. Our laws need to shift the burden of proof to the entity that can afford it and that is planning on using, extracting and in many cases, damaging our natural resources. The bar for showing that they are not harming our resources should be higher for the applicants, not the public.

The idea that once a permit is issued, the project should proceed unhindered is based on the assumption that the DEQ always does a thorough job in issuing the permit and the applicant is always forthright in the information submitted for the permit. We have seen with the permitting of water discharge with the CBM industry that there is not enough monitoring and enforcement. Problems are not addressed with permits and those of us who depend on the results of these permits for clean water and soil we need to ranch and farm are already suffering the consequences of a DEQ that is too busy and too compromised to do its work.

With the tight time frames and limited resources available for the DEQ, we should not assume that all permits are appropriate. Bad projects such as Zortman-Landusky and the vermiculite mine in Libby were permitted by the State. We need open access for citizens' to challenge such bad projects in order to avoid making such mistakes in the future.

In past legislative sessions we have seen the Major Facility Siting Act be severely weakened. This bill would essentially eliminate public oversight of Department of Environmental Quality (DEQ) decisions on air permits and Major Facility Siting Act certificates. Do we

really want energy companies running our state and making our laws? What is the purpose of government if it is not to allow the public a voice in the permitting and siting of projects that have huge impacts on our businesses, our health, and our futures?

A bill like this is not only a threat to our state's resources but also to our democracy.

We can have development in our state but we cannot do so without citizens' involvement in the processes that structure how and where development happens. We will lose much more than our clean air, land and water. This bill may seem like an effort to speed up progress but it will allow disasters that will be very expensive. A bill like this puts too much power in the hands of two few. We are all richer, healthier and more prosperous when the public has a say.

Sincerely,

Jeanie Alderson
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